

TRANSPORTATION INVESTMENT ACT

2005 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code, the Sales and Use Tax Act, the Motor and Special Fuel Tax Act, the State Appropriations and Tax Limitation Act, and the Transportation Code by amending provisions to increase funding for transportation.

Highlighted Provisions:

This bill:

- ▶ creates the Transportation Investment Fund of 2005 to pay the costs of maintenance, reconstruction, or renovation to state and federal highways;
- ▶ redesignates the Centennial Highway Fund as a restricted account within the Transportation Investment Fund of 2005;
- ▶ transfers the Centennial Highway Fund Restricted Account revenue sources to the Transportation Investment Fund of 2005 when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account;
- ▶ provides that a portion of the sales and use tax revenue shall be deposited into the Centennial Highway Fund Restricted Account;
- ▶ requires the Division of Finance:
 - to monitor the highway general obligation bonds that are being paid from revenues deposited into the Centennial Highway Fund Restricted Account; and
 - to report on the status of the bonds to the Executive Appropriations Committee upon request;
- ▶ requires the Department of Transportation to:

- monitor the highway projects that are being funded by the Centennial Highway Fund Restricted Account; and
- report on the status of the projects to the Executive Appropriations Committee upon request;
- requires the Executive Appropriations Committee to notify the Division of Finance, the State Tax Commission, and the Department of Transportation when all highway projects have been completed and all general highway obligation bonds have been paid off that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account;
- exempts the Transportation Investment Fund of 2005 from spending limit provisions; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- (\$110,607,700) from the General Fund and the Centennial Highway Fund to the Centennial Highway Program;
- \$80,607,700 to the Centennial Highway Program from the Centennial Highway Fund Restricted Account; and
- \$30,000,000 from the General Fund to the Transportation Investment Fund of 2005 for new state highway construction for the fiscal year 2005-06 only.

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

41-1a-1201, as last amended by Chapters 1 and 212, Laws of Utah 2003

59-12-103 (Superseded 07/01/06), as last amended by Chapter 233, Laws of Utah 2005

59-12-103 (Effective 07/01/06), as last amended by Chapters 158 and 233, Laws of Utah 2005

59-13-304 (Effective 05/02/05), as last amended by Chapter 108, Laws of Utah 2005

63-38c-103, as last amended by Chapter 318, Laws of Utah 2004

72-2-118, as last amended by Chapter 147, Laws of Utah 2000

ENACTS:

72-2-124, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-1a-1201** is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (4), and (6), and Sections 41-1a-422, 41-1a-1220, and 41-1a-1221, all fees collected under this part shall be deposited in the Transportation Fund.

(3) (a) Funds generated under Subsections 41-1a-1211(1)(a), (6)(a), and (7) and Section 41-1a-1212 may be used by the commission as a dedicated credit to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(b) Fees for statehood centennial license plates shall be collected and deposited in the Transportation Fund, less production and administrative costs incurred by the commission.

(4) All funds available to the commission for purchase and distribution of license plates and decals are nonlapsing.

(5) Except as provided in Subsection (3) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(6) ~~[The]~~ (a) Except as provided in Subsection (6)(b), the following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited in the Centennial Highway Fund Restricted Account created under Section 72-2-118:

~~[(a)]~~ (i) \$10 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b),

(2), and (5);

~~[(b)]~~ (ii) \$1 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i), (1)(c)(ii), and (1)(d)(ii);

~~[(c)]~~ (iii) \$2 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

~~[(d)]~~ (iv) \$3 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i); and

~~[(e)]~~ (v) \$4.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i).

(b) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the portions of the registration fees deposited under Subsection (6)(a) for each vehicle shall be deposited in the Transportation Investment Fund of 2005 created by Section 72-2-124.

Section 2. Section **59-12-103 (Superseded 07/01/06)** is amended to read:

59-12-103 (Superseded 07/01/06). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(C) mobile telecommunications service that originates and terminates within the

boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal

property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and

- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;

- (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning or washing of tangible personal property;

- (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

- (j) amounts paid or charged for laundry or dry cleaning services;

- (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

- (i) stored;

- (ii) used; or

- (iii) otherwise consumed;

- (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

- (i) stored;

- (ii) used; or

- (iii) consumed; and

- (m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

- (i) a state tax imposed on the transaction at a rate of 4.75%; and

- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

- (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001:

- (i) a state tax and a local tax is imposed on a transaction described in Subsection (1)(d)

equal to the sum of:

(A) a state tax imposed on the transaction at a rate of 2%; and

(B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part; or

(ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction equal to the sum of:

(A) a state tax imposed on the transaction at a rate of:

(I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

(II) 2% for a transaction described in Subsection (1)(d); and

(B) a local tax imposed on the transaction at a rate equal to the sum of the following rates:

(I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204; and

(II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the state impose the tax under Section 59-12-1102.

(c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i);

(ii) Subsection (2)(b)(i)(A); or

(iii) Subsection (2)(b)(ii)(A).

(d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(I) Subsection (2)(a)(i);

(II) Subsection (2)(b)(i)(A); or

(III) Subsection (2)(b)(ii)(A).

(ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Subsection (2)(a)(i);

(II) Subsection (2)(b)(i)(A); or

(III) Subsection (2)(b)(ii)(A).

(iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection (1)(b);

(B) Subsection (1)(c);

(C) Subsection (1)(d);

(D) Subsection (1)(e);

(E) Subsection (1)(f);

(F) Subsection (1)(g);

(G) Subsection (1)(h);

(H) Subsection (1)(i);

(I) Subsection (1)(j); or

(J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change under Subsection (2)(a)(i) or (2)(b)(ii)(A).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsections (4) through (7), the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i);
- (ii) the tax imposed by Subsection (2)(b)(i)(A); or
- (iii) the tax imposed by Subsection (2)(b)(ii)(A).

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(i)(B) shall be distributed to a county, city, or town as provided in this chapter.

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state shall receive the county's, city's, or town's proportionate share of the revenues generated by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

(ii) The commission shall determine a county's, city's, or town's proportionate share of the revenues under Subsection (3)(c)(i) by:

(A) calculating an amount equal to the population of the county, city, or town divided by the total population of the state; and

(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties, cities, and towns.

(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes of this section shall be derived from the most recent official census or census estimate of the United States Census Bureau.

(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(C) For purposes of this section, the population of a county may only include the population of the unincorporated areas of the county.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

(B) conduct hydrologic and geotechnical investigations by the Department of Natural Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(C) fund state required dam safety improvements; and

(D) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b) through (d):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$18,743,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(ii) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in

Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies, beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2004-05, the commission shall each year on or before the September 30 immediately following the last day of the fiscal year deposit the difference described in Subsection (7)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (7)(a) is equal to the difference between:

(i) the total amount of the revenues under Subsection (2)(b)(ii)(A) the commission received from sellers collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (7)(a); and

(ii) \$7,279,673.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(ii)(A) into the Centennial Highway Fund Restricted Account created by Section 72-2-118.

(b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under Subsection (6)(b), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

Section 3. Section **59-12-103 (Effective 07/01/06)** is amended to read:

59-12-103 (Effective 07/01/06). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(C) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec.116 et seq.; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 4.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i); or
- (ii) Subsection (2)(b)(i).

(d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take effect on the first day of the first billing period:

- (A) that begins after the effective date of the tax rate increase; and
- (B) if the billing period for the transaction begins before the effective date of a tax rate

increase imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).

(ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).

(iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection (1)(b);
- (B) Subsection (1)(c);
- (C) Subsection (1)(d);
- (D) Subsection (1)(e);
- (E) Subsection (1)(f);
- (F) Subsection (1)(g);
- (G) Subsection (1)(h);
- (H) Subsection (1)(i);
- (I) Subsection (1)(j); or
- (J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate imposed under Subsection (2)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change under Subsection (2)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsections (4) through (7), the following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i); or

(ii) the tax imposed by Subsection (2)(b)(i).

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to a county, city, or town as provided in this chapter.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections

63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund

created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

(B) conduct hydrologic and geotechnical investigations by the Department of Natural Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(C) fund state required dam safety improvements; and

(D) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b) through (d):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$18,743,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(ii) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies, beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the

taxable transactions under Subsection (1).

(7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2004-05, the commission shall each year on or before the September 30 immediately following the last day of the fiscal year deposit the difference described in Subsection (7)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (7)(a) is equal to the difference between:

(i) the total amount of the following revenues the commission received from sellers collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (7)(a):

(A) revenues under Subsection (2)(a)(i); and

(B) revenues under Subsection (2)(b)(i); and

(ii) \$7,279,673.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Centennial Highway Fund Restricted Account created by Section 72-2-118.

(b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under Subsection (6)(b), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

Section 4. Section **59-13-304 (Effective 05/02/05)** is amended to read:

59-13-304 (Effective 05/02/05). Exemptions from Special Fuel Tax -- Clean Special Fuel Tax -- Certificate required -- Fees for certificates -- Inspection of vehicles -- Exemptions.

(1) (a) Except as provided in Subsection (4), a user of special fuel who owns a vehicle powered by a clean special fuel as defined under Section 59-13-102 shall pay a clean special fuel tax as provided under this section for use of clean special fuel.

(b) A user of special fuel who qualifies for the clean special fuel tax shall annually purchase from the commission a clean special fuel tax certificate for each vehicle owned or leased that is powered by a clean special fuel.

(c) Clean special fuel tax certificates are provided to encourage the use of clean fuels to reduce air pollution.

(2) (a) The fee for a clean special fuel tax certificate is:

(i) 70/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and

(ii) 36/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for other vehicles.

(b) The commission may require each vehicle to be inspected for safe operation before issuing the certificate.

(c) Each vehicle shall be equipped with an approved and properly installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

(3) (a) Beginning January 1, 2001 through December 31, 2010, there is imposed a surcharge of \$35 on each clean special fuel tax certificate issued under this section.

(b) ~~[Surcharges]~~ (i) Until Subsection (3)(b)(ii) applies, surcharges imposed under Subsection (3)(a) shall be deposited into the Centennial Highway Fund Restricted Account created under Section 72-2-118.

(ii) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the surcharge imposed under Subsection (3)(a) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(4) A governmental entity identified in Subsection 59-13-301(9) that owns or leases a

vehicle powered by a special fuel that qualifies as a clean special fuel is exempt from the clean special fuel tax imposed under this section.

Section 5. Section **63-38c-103** is amended to read:

63-38c-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund sources and from non-Uniform School Fund income tax revenues as presented in the governor's executive budgets.

(b) "Appropriation" includes appropriations that are contingent upon available surpluses in the General Fund.

(c) "Appropriations" does not mean:

- (i) debt service expenditures;
- (ii) emergency expenditures;
- (iii) expenditures from all other fund or subfund sources presented in the executive budgets;
- (iv) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63-38-2.5;
- (v) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63-38-2.6;
- (vi) monies appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104; ~~[or]~~
- (vii) appropriations made to the Centennial Highway Fund Restricted Account created by Section 72-2-118~~[-]; or~~
- (viii) appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt monies by:

- (a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special Session.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt monies.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63-38c-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and

other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 6. Section **72-2-118** is amended to read:

72-2-118. Centennial Highway Fund Restricted Account.

(1) There is created [~~a special revenue fund~~] a restricted account entitled the Centennial Highway Fund Restricted Account within the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) The [~~fund~~] account consists of monies generated from the following revenue sources:

(a) any voluntary contributions received for the construction, major reconstruction, or major renovation of state or federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Subsection 41-1a-1201(6)(a); and

(d) the sales and use tax amounts provided for in Section 59-12-103.

(3) (a) The [~~fund~~] account shall earn interest.

(b) All interest earned on [~~fund~~] account monies shall be deposited into the [~~fund~~] account.

(4) The executive director may use [~~fund~~] account monies, as prioritized by the Transportation Commission, only to pay the costs of construction, major reconstruction, or major renovation to state and federal highways.

(5) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the account as determined by the Executive Appropriations Committee under Subsection (6)(d), the Division of Finance shall transfer any existing balance in the account into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the highway general obligation bonds that are being paid from revenues deposited in the account.

(b) The department shall monitor the highway construction, major reconstruction, or major renovation projects that are being paid from revenues deposited in the account.

(c) Upon request by the Executive Appropriations Committee of the Legislature:

(i) the Division of Finance shall report to the committee the status of all highway general obligation bonds that are being paid from revenues deposited in the account; and

(ii) the department shall report to the committee the status of all highway construction, major reconstruction, or major renovation projects that are being paid from revenues deposited in the account.

(d) The Executive Appropriations Committee of the Legislature shall notify the State Tax Commission, the department, and the Division of Finance when:

(i) all highway general obligation bonds that are intended to be paid from revenues deposited in the account have been paid off; and

(ii) all highway projects that are intended to be paid from revenues deposited in the account have been completed.

Section 7. Section **72-2-124** is enacted to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a special revenue fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of monies generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the fund shall also consist of monies generated from the

following sources:

(a) registration fees designated under Subsection 41-1a-1201(6)(a);

(b) the clean special fuel tax certificate surcharge under Subsection 59-13-304(3); and

(c) the sales and use tax amounts provided for in Subsections 59-12-103(6)(b) and (8)(b).

(4) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(5) (a) Except as provided in Subsection (5)(b), the executive director may use fund monies only to pay the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund monies deposited into the fund in fiscal year 2006 only to pay the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission.

Section 8. Appropriation.

Under the terms and conditions of Section 63-38-3, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the use and support of the government of the State of Utah for the fiscal year beginning July 1, 2005 and ending June 30, 2006. This is in addition to or a subtraction from amounts previously appropriated for fiscal year 2006.

To Department of Transportation - Centennial Highway Program

<u>From General Fund</u>	<u>(59,594,700)</u>
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<u>From General Fund, One-time</u>	<u>(30,000,000)</u>
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<u>From Centennial Highway Fund</u>	<u>(21,013,000)</u>
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Schedule of Programs:

<u>Centennial Highway Program</u>	<u>(110,607,700)</u>
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To Department of Transportation - Centennial Highway Program

<u>From Centennial Highway Fund Restricted Account</u>	<u>80,607,700</u>
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Schedule of Programs:

<u>Centennial Highway Program</u>	<u>80,607,700</u>
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To Department of Transportation - Transportation Investment Fund of 2005

<u>From General Fund, One-time</u>	<u>30,000,000</u>
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Schedule of Programs:

<u>Transportation Investment Fund of 2005</u>	<u>30,000,000</u>
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To Department of Transportation - Construction Management

<u>From Transportation Investment Fund of 2005</u>	<u>30,000,000</u>
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Schedule of Programs:

<u>State Construction - New</u>	<u>30,000,000</u>
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Section 9. **Effective date.**This bill takes effect on July 1, 2005.